

CHAPTER 1090**SECURITY FOR DEPOSIT OF PUBLIC FUNDS***H.F. 2323*

AN ACT relating to the pledge of United States government obligations or their functional equivalents as security for the deposit of public funds.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 453.16, subsection 1, paragraph b, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America, which may be used to secure the deposit of public funds under subparagraph (1), include investments in an investment company or investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, the portfolio of which is limited to the United States government obligations described in subparagraph (1) and to repurchase agreements fully collateralized by the United States government obligations described in subparagraph (1), if the investment company or investment trust takes delivery of the collateral either directly or through an authorized custodian.

Sec. 2. Section 453.22, subsection 3, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America, which may be used to secure public deposits under paragraph "a", include investments in an investment company or investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, the portfolio of which is limited to the United States government obligations described in paragraph "a" and to repurchase agreements fully collateralized by the United States government obligations described in paragraph "a", if the investment company or investment trust takes delivery of the collateral either directly or through an authorized custodian.

Approved April 26, 1988

CHAPTER 1091**PAROLE AND WORK RELEASE***H.F. 2369*

AN ACT relating to the duties and authority of the board of parole.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 246.909, Code 1987, is amended to read as follows:

246.909 WORK RELEASE VIOLATORS — REIMBURSEMENT TO THE DEPARTMENT OF CORRECTIONS FOR TRANSPORTATION COSTS.

A The department of corrections shall arrange for the return of a work release client who escapes or participates in an act of absconding from the facility to which the client is assigned to the client shall reimburse the department of corrections for the cost of transportation incurred because of the escape or act of absconding. The amount of reimbursement shall be the actual cost incurred by the department and shall be credited to the support account from which the

billing occurred. The director of the department of corrections shall recommend rules pursuant to chapter 17A, subject to approval by the board of corrections pursuant to section 246.105, subsection 7, to implement this section.

Sec. 2. NEW SECTION. 902.11 MINIMUM SENTENCE -- ELIGIBILITY OF PRIOR FORCIBLE FELON FOR PAROLE OR WORK RELEASE.

A person serving a sentence for conviction of a felony who has a criminal record of one or more prior convictions for a forcible felony or a crime of a similar gravity in this or any other state, shall be denied parole or work release unless the person has served at least one-half of the maximum term of the defendant's sentence. However, the mandatory sentence provided for by this section does not apply if either of the following apply:

1. The sentence being served is for a felony other than a forcible felony and the sentences for the prior forcible felonies expired at least five years before the date of conviction for the present felony.

2. The sentence being served is on a conviction for operating a motor vehicle while under the influence of alcohol or a drug under chapter 321J.

Sec. 3. Section 904A.4, Code 1987, is amended to read as follows:

904A.4 DUTIES.

1. The board of parole shall interview and consider inmates for parole or work release and a majority vote of the members is required to grant a parole or work release.

~~A member of the board of parole shall conduct parole or work release revocation hearings and may revoke a parole or work release, unless prior to the hearing the offender requests that the revocation hearing be conducted by a three-person panel of the board of parole, in which case a three-member panel of the board of parole shall conduct the revocation hearing and a majority vote of the panel is required to revoke the parole or work release.~~

2. A member of the board of parole shall adjudicate parole revocation appeals and reviews, unless the offender requests that the revocation appeal or review be conducted by a three-member panel of the board of parole, in which case a three-member panel of the board of parole shall adjudicate the revocation appeal or review and a majority of the panel is required to modify the parole revocation officer's decision.

3. A member of the board of parole shall conduct a final work release case review, including a review of work release disciplinary proceedings conducted by the department of corrections and the judicial district, and may revoke work release.

2 4. Immediately following an offender's diagnostic review, as provided by section 246.202, the board shall arrange an interview between a liaison officer of the board and the offender to inform the offender of the earliest eligibility for parole, the maximum permissible length of the sentence, the rules and procedures regarding the issuance of parole, the availability of parole interview waivers, and other information deemed pertinent by the board or the liaison officer.

3 5. The board shall gather and review information regarding new parole and work release programs being instituted or considered nationwide and determine which programs may be useful for this state. This information and the resulting recommendations shall be forwarded to the director of the Iowa department of corrections on a quarterly basis.

4 6. The board shall maintain records regarding those individuals granted parole, work release, furlough, or a similar release status, and the records shall reflect the relationship of the success of the inmates on release status to the programs completed by the inmates while in the institution. The information shall be forwarded to the office of the governor and to the chairpersons of the house standing committee on judiciary and law enforcement and the senate standing committee on judiciary annually.

5 7. The board shall conduct an annual review of parole and work release programs and

procedures used in this state. To assist in this review, the board shall solicit written input and comment from interested parties, including the general public and inmates of the various institutions. The board shall also conduct public hearings.

6 8. The board shall review the present system for gathering and storing information on inmates to determine whether increased utilization of data processing and computerization techniques would assist in the orderly conduct of the parole or work release system.

7 9. The board shall adopt and implement administrative rules pursuant to chapter 17A to carry out the provisions of this chapter.

Sec. 4. Section 906.5, Code Supplement 1987, is amended to read as follows:

906.5 RECORD REVIEWED — ELIGIBILITY OF PRIOR FORCIBLE FELON FOR PAROLE OR WORK RELEASE — RULES.

Within one year after the commitment of a person other than a class "A" felon to the custody of the director of the Iowa department of corrections, a member of the board shall interview the person. Thereafter, at regular intervals, not to exceed one year, the board shall interview the person and consider the person's prospects for parole or work release. At the time of an interview, the board shall consider all pertinent information regarding the person, including the circumstances of the person's offense, any presentence report which is available, the previous social history and criminal record of the person, the person's conduct, work, and attitude in prison, and the reports of physical and mental examinations that have been made.

If the person who is under consideration for parole is serving a sentence for conviction of a felony and has a criminal record of one or more prior convictions for a forcible felony or a crime of a similar gravity in this or any other state, parole shall be denied unless the person has served at least one-half of the maximum term of the defendant's sentence. However, the mandatory sentence provided for by this section does not apply if:

1. The sentence being served is for a felony other than a forcible felony and the sentences for the prior forcible felonies expired at least five years before the date of conviction for the present felony.

2. The sentence being served is on a conviction for operating a motor vehicle while under the influence of alcohol or a drug under chapter 321J.

A person while on parole or work release is under the supervision of the district department of correctional services of the district designated by the board of parole. The department of corrections shall prescribe rules for governing persons on parole or work release. The board may adopt other rules not inconsistent with the rules of the department of corrections as the board deems proper or necessary for the performance of its functions.

Sec. 5. Section 906.16, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The time when a prisoner is on parole or work release from the institution shall be held to apply upon to the sentence against the parolee or work releasee even if unless the parole or work release is subsequently revoked; except that the time when the parolee or work releasee is in violation of the terms of the parole or work release agreement shall not apply upon the sentence. If the parole or work release is revoked, the board of parole shall determine the amount of time on parole or work release that shall apply to the sentence against the parolee or work releasee, except that the time the parolee or work releasee was in compliance with the terms of the parole or work release prior to the violation shall apply upon the sentence.

Sec. 6. Section 908.1, Code 1987, is amended to read as follows:

908.1 ARREST OF ALLEGED PAROLE VIOLATOR — NEWLY DISCOVERED EVIDENCE.

A parole officer having probable cause to believe that any person released on parole has violated the parole plan or the conditions of parole may arrest such person, or the parole officer

may make a complaint before a magistrate, charging such violation, and if it appears from such complaint, or from affidavits filed with it, that there is probable cause to believe that such person has violated the parole plan or the terms of parole, the magistrate shall issue a warrant for the arrest of such person. If a parole officer has newly discovered evidence which indicates that a person released on parole should not have been granted parole originally, the parole officer shall present the evidence to the board of parole and the board may issue an order to rescind the parole.

Sec. 7. Section 908.2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

An officer making an arrest of an alleged parole violator shall take the arrested person before a magistrate without unnecessary delay for an initial appearance. At that time the alleged parole violator shall be furnished with a written notice of the claimed violation, shall be advised of the right to appointed counsel under rule 26 of the rules of criminal procedure, and shall be given notice that a parole revocation hearing will take place and that its purpose is to determine whether there is probable cause to believe that the alleged parole violator has committed a parole violation occurred and whether the alleged violator's parole should be revoked.

Sec. 8. Section 908.3, Code 1987, is amended to read as follows:

908.3 PLACE OF PROBABLE CAUSE PAROLE REVOCATION HEARING.

The probable cause parole revocation hearing shall be held in the same any county as in the same judicial district in which the alleged parole violator had the initial appearance or in the county from which the warrant for the arrest of the alleged parole violator was issued.

Sec. 9. Section 908.4, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

908.4 PAROLE REVOCATION HEARING.

The parole revocation hearing shall be conducted by a parole revocation officer who is an attorney appointed pursuant to section 904A.5. The revocation hearing shall determine the following:

1. Whether the alleged parole violation occurred.
2. Whether the violator's parole should be revoked.

The parole revocation officer shall make a verbatim record of the proceedings. The alleged violator shall be informed of the evidence against the violator, shall be given an opportunity to be heard, shall have the right to present witnesses and other evidence, and shall have the right to cross-examine adverse witnesses, except if the revocation officer finds that a witness would be subjected to risk or harm if the witness' identity were disclosed. The revocation hearing may be conducted electronically.

Sec. 10. Section 908.5, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

908.5 DISPOSITION.

If the parole revocation officer determines that the parole should not be revoked, the parole revocation officer shall issue an order reinstating the parole upon terms and conditions the parole revocation officer shall determine, including the transfer of the parolee to work release if appropriate. If the parole revocation officer determines that the parole should be revoked, the parole revocation officer shall issue an order revoking the parole. The order of the parole revocation officer shall contain findings of fact, conclusions of law, and a disposition of the matter.

Sec. 11. Section 908.6, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

908.6 APPEAL OR REVIEW.

The order of the parole revocation officer shall become the final decision of the board of parole unless, within the time provided by rule, the parole violator appeals the decision or a panel of the board reviews the decision on its own motion. On appeal or review of the parole revocation officer's decision, the board panel has all the power which it would have in initially making the revocation hearing decision. The appeal or review shall be conducted pursuant to rules adopted by the board of parole. The record on appeal or review shall be the record made at the parole revocation hearing conducted by the parole revocation officer.

Sec. 12. Section 908.7, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

908.7 WAIVER OF PAROLE REVOCATION HEARING.

The alleged parole violator may waive the parole revocation hearing, in which event the parole revocation officer shall proceed to determine the disposition of the matter. The parole revocation officer shall dispose of the case as provided in section 908.4. The parole revocation officer shall make a verbatim record of the proceedings. The waiver proceeding may be conducted electronically.

Sec. 13. Section 908.9, Code 1987, is amended to read as follows:

908.9 DISPOSITION OF VIOLATOR.

If the parole of a parole violator is revoked, the violator shall remain in the custody of the Iowa department of corrections under the terms of the parolee's original commitment. If the parole of a parole violator is not revoked, the board parole revocation officer or board panel shall order the person's release subject to the terms of the person's parole with any modifications that the board parole revocation officer or board panel determines proper.

Sec. 14. Section 908.10, Code 1987, is amended to read as follows:

908.10 CONVICTION OF OTHER OFFENSE AS VIOLATION.

When the alleged violation consists of a conviction of a public offense in this or any other state, ~~such~~ the conviction shall be proved by a certified copy of the judgment of conviction, together with evidence that the alleged violator is the person against whom the judgment was rendered. Neither the ~~liaison officer, court,~~ parole revocation officer nor board of parole ~~the board panel~~ shall retry the facts underlying such conviction.

Sec. 15. Section 908.8, Code 1987, is repealed.

Approved April 26, 1988

CHAPTER 1092**JURISDICTION OF MAGISTRATES***S.F. 2063*

AN ACT relating to the jurisdiction of magistrates, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 602.6405, subsection 1, Code Supplement 1987, is amended by striking the subsection and inserting in lieu thereof the following: